

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

ANTHONY DOWERY,

Petitioner,

v.

MAGGIE BEIGHTLER,

Respondent.

CASE NO. 1:11-CV-198

MEMORANDUM OF OPINION
AND ORDER

UNITED STATES DISTRICT JUDGE LESLEY WELLS

On January 27, 2011, petitioner *pro se* Anthony Dowery filed the above-captioned habeas corpus action. The petition appears to assert that Mr. Dowery's sentence has expired but that he is still incarcerated at the Marion Correctional Institution. He also argues that his incarceration violates equal protection.

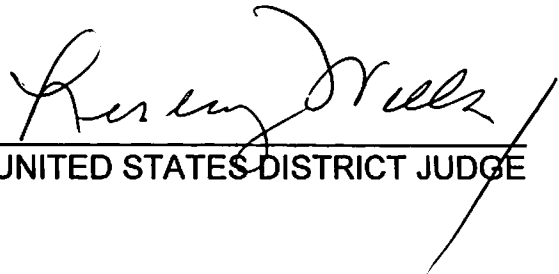
A federal district court may entertain a petition for a writ of habeas corpus by a person in state custody only on the ground that the custody violates the Constitution or laws of the United States. Furthermore, the petitioner must have exhausted all available state remedies. 28 U.S.C. § 2254.

There is no indication on the face of the petition that Mr. Dowery has sought relief via an action for habeas corpus and/or mandamus in the Ohio courts. Given that he seeks to raise issues concerning Ohio's parole system which might conceivably be resolved by the state courts, he has not yet exhausted these available state remedies. See Brewer v. Dahlberg, 942 F.2d 328, 336-37 (6th Cir.1991) (petitioner required to seek writ of habeas corpus under Ohio law where he alleged parole revocation

occurred after sentence expired).

Accordingly, this action is dismissed without prejudice pursuant to Rule 4 of the Rules Governing Section 2254 Cases. Further, the court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that an appeal from this decision could not be taken in good faith, and that there is no basis on which to issue a certificate of appealability. 28 U.S.C. § 2253; Fed.R.App.P. 22(b).

IT IS SO ORDERED.


UNITED STATES DISTRICT JUDGE

Date: 5 April 2011